

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**JOHN POLITZ & HELEN POLITZ**

**PLAINTIFFS**

**V.**

**CIVIL ACTION NO. 1:08CV18-LTS-RHW**

**NATIONWIDE MUTUAL FIRE INSURANCE  
COMPANY, U.S. SMALL BUSINESS  
ADMINISTRATION, AND JOHN DOES 1  
THROUGH 10**

**DEFENDANTS**

**MOTION TO COMPEL PLAINTIFF TO SIGN  
PRIVACY ACT RELEASE FOR U.S. SMALL  
BUSINESS ADMINISTRATION DISCOVERY**

Pursuant to Federal Rule of Civil Procedure 37(a)(3)(B), Defendant Nationwide Mutual Fire Insurance Company (“Nationwide”) respectfully moves this Court for an order compelling Plaintiff, Mrs. Helen Politz, to sign a Privacy Act Release Form so that the U.S. Small Business Association (SBA) may release information and documents responsive to Nationwide’s discovery requests. In support of its motion, Nationwide states the following:

1. For several weeks, Nationwide has made persistent, good-faith efforts to discover information underlying Plaintiff’s application to, and loan of funds by, the SBA as a result of damage to Plaintiff’s residence caused by Hurricane Katrina. On September 3, 2008, Nationwide served written interrogatories and requests for production of documents on the SBA for information relevant to the claims at issue in this case. (*See* Sept. 3, 2008 Nationwide Interrogs. and Req. for Prod. of Docs. to U.S. Small Business Administration (Ex. 1).)

2. The U.S. Attorney involved in this action, Mr. Crockett Lindsey, has stated that although he is willing to respond to Nationwide’s discovery requests, he may not do so until Mrs. Politz provides an executed Privacy Act Release Form. (*See* Oct. 14, 2008 Email E. Locke to

C. Lindsey (confirming telephone conversation regarding Privacy Act Waiver) (Ex. 2).) Mr. Lindsey insists such a waiver is necessary to release confidential information relating to the Plaintiff's SBA loan application and grant. *Id.*

3. Accordingly, on October 15, 2008, counsel for Nationwide made a request to Plaintiff's counsel that Mrs. Politz execute a Privacy Act Release Form, which was provided by Mr. Crockett. (*See* Oct. 15, 2008 Email E.Locke to K.Carter (Ex. 3).) Plaintiff's counsel, however, responded that Mrs. Politz would not sign a Privacy Act Release Form. (*See* Oct. 20, 2008 Email K.Carter to E.Locke (Ex. 3).)

4. Plaintiff's refusal has prevented Nationwide from obtaining relevant and discoverable information in this lawsuit. This action arises from damages that Mrs. Politz claims her residence suffered during Hurricane Katrina. In her Complaint, Mrs. Politz named not only Nationwide as a defendant, but also the SBA. This is because Plaintiff has secured an SBA loan, and, therefore, the SBA is a lien-holder on Plaintiff's property. (Jan. 17, 2008 Compl. ¶ 3 (Dkt. 1).) The SBA will only approve a loan to individuals if they are seeking to repair or replace a primary residence that suffered damage as a result of a officially-declared disaster. *See generally* SBA Disaster Loans, available at <http://www.sba.gov/services/financialassistance/sbaloantopics/property/index.html> (last visited Nov. 3, 2008). As part of its loan-approval process, the SBA conducts its own assessment of the damage that occurred to its loan applicants' properties. *Id.* Therefore, the SBA loan file likely contains a damage assessment of Plaintiff's property (and may include additional photographs of the residence and other relevant information to this dispute).

5. Nationwide is entitled to understand the full scope of the SBA's assessment of the damage to the Politz residence. Moreover, Nationwide believes that Plaintiff's SBA loan file is

highly relevant and may have probative information, which Nationwide is entitled to discover under the Federal Rules of Civil Procedure. Accordingly, Nationwide respectfully requests an order compelling Plaintiff to sign the attached Privacy Act Waiver form (attached hereto as Exhibit 4) so that Nationwide may obtain relevant and discoverable information from the SBA.

6. Nationwide certifies that its counsel has conferred with counsel for the Plaintiff in good faith and the parties are unable to reach an agreement without the Court's intervention.

7. Because the facts and legal principles contained in this Motion have been fully discussed and developed, Nationwide respectfully requests that it be excused from submitting a separate memorandum brief in support of this Response under Uniform District Court Rule 7.2(D).

WHEREFORE PREMISES CONSIDERED, Nationwide prays that its Motion to Compel be granted and that Plaintiff be required to execute a Privacy Act Release Form within three days of entry of the Court's Order.

This, the 3rd day of November, 2008.

Respectfully submitted,

NATIONWIDE MUTUAL FIRE INSURANCE  
COMPANY

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day electronically filed the foregoing using the Court's ECF System, which sent electronic notification of such filing to the following:

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This, the 3rd day of November, 2008.

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